



**CHEVY CHASE
VILLAGE
POLICE
DEPARTMENT**

Police Chief: John Fitzgerald

GENERAL ORDER: 5-61; FIRST AMENDMENT RIGHTS

DATE: 11/18/2014 Pages: 2 ♦ New ♦ Amended ♦ Rescinds

CALEA:

I. PURPOSE

To specify guidelines for police response to public protests, labor strikes, and other activities involving First Amendment rights.

II. POLICY

The Chevy Chase Village Police Department will protect, and will in no way restrain, the right of the people to engage in the free exercise of lawful speech, assembly, religion or any other lawful activity. However, officers are authorized to take appropriate enforcement action when the actions of individuals or groups of persons violate the law or otherwise exhibit a clear and present danger to the health, safety, or welfare of the general public.

III. DISCUSSION

FIRST AMENDMENT TO THE CONSTITUTION OF THE UNITED STATES: "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof, or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances."

The First Amendment to the U.S. Constitution guarantees the right of all persons to freedom of speech, religion, press, to peaceful assembly, and to petition the government for a redress of grievances. Thus, individuals have the right to speak their opinions and beliefs, make proclamations, distribute literature and peaceably assemble together for a common cause. This right is not without some limitation as described, below.

IV. PERMISSIBLE ACTIONS

- A. As long as the activity does not constitute a clear and present danger to the health, safety and welfare of the general public, and does not violate the law, persons may assemble, preach, distribute literature, picket and protest on public property, burn a flag, etc.
- B. Public property includes public streets, sidewalks, parks and other common areas so designated. Public

property has been defined by the U.S. Supreme Court to be a traditional public forum where individuals may freely express their views, even though those views may be unpopular or offensive to some members of society.

- C. First Amendment activity on public property is fully protected, subject only to reasonable time, place and manner restrictions. Time, place and manner restrictions may be placed on First Amendment activity so long as those regulations are content neutral, serve a significant governmental interest, and leave open ample alternative channels of communication. Police personnel must consider time, location, and decibel level before attempting to interfere with any First Amendment activity.
- D. State law (Criminal Law §10-201, Disturbing the Peace and Disorderly Conduct) gives officers the authority to order individuals to disperse who are obstructing the free passage of, or who are interfering with, citizens on any public street, public highway, public sidewalk, or any other public place or building. The officer must first warn the individual(s) and advise them to move on or disperse. Any person who fails or refuses to obey such orders shall be guilty of a violation of this law, which is a misdemeanor.

V. NON-PERMISSIBLE ACTIONS

- A. Individuals engaged in First Amendment activity may NOT:
 - 1. obstruct the path of persons utilizing a public sidewalk;
 - 2. interfere with the business of another by use of sound, by blocking entrances to buildings or dwellings; or by obstructing motor vehicles or pedestrian traffic;
 - 3. assemble in a manner that disrupts a person's right to tranquility in the person's home;
 - 4. demonstrate, assemble, distribute literature, or preach on private property against the will of the

owner or lawful tenant of that property; or,

5. commit any crime while asserting First Amendment Rights.

- B. If a criminal offense is committed by a person engaged in First Amendment activity, enforcement action may be taken.

VI. RESPONSE TO VIOLATIONS INVOLVING PERSONS EXERCISING OR ASSERTING FIRST AMENDMENT RIGHTS

- A. When police officers are confronted with cases involving individuals engaged in First Amendment activity in a manner which the officer has reason to believe is a violation, but does not require immediate arrest, (e.g., imminent bodily injury, destruction of property, etc.), the responding officer will notify a supervisor who will respond to the scene.
- B. The supervisor and/or officer will approach the individuals and provide a warning of the suspected offense. If the individuals do not respond to the warning and do not comply with any applicable time, place or manner restriction, the responding officer and supervisor, upon probable cause, will take action necessary to protect the public safety, health and welfare or to prevent the commission of a crime.

VII. PICKET LINES & LEAFLETS/PAMPHLETS

Many labor organizations engaged in strikes will utilize picket lines to demonstrate their cause and will distribute information in the form of leaflets or pamphlets. Picketers will adhere to the following guidelines:

- A. Picket lines are permitted on public sidewalks when they do not obstruct pedestrian traffic. Picketers are not permitted on roadways, cannot obstruct traffic in any manner, and cannot be located on private property without the permission of the owner.
- B. There is no maximum number of participants established for pickets, providing their conduct conforms to these guidelines.
- C. Picketers are not permitted to block a door, passageway, driveway, crosswalk or any other entry or exit to a house, plant, or place of business. Pedestrian, vehicular or commercial vehicle traffic will not be impeded.
- D. Picketers are permitted to distribute informational leaflets and/or pamphlets.

- E. Employees, suppliers, or customers of the target of the picket have the right to freely pass.

- F. Intimidation of employees, suppliers, or customers is not permitted. Union officials or picketers have a right to talk to persons going in and out of a picketed area, provided they are orderly.